IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 314 of 2002 (S/S)
(Old Number 365 of 1990)

1. Anand Singh
   S/o Shri Ram Pal Singh
   R/o Village Naurangabad
   Alias Allhapur, Post: Dhampur
   District: Bijnor.
2. Ram Pal Singh
   S/o Shri Buddh Singh
   R/o village Milak Ajitpur
   Post: Mankuwa, Distt. Bijnore
3. Surendra Kumar
   S/o Shri Budh Singh
   R/o Village Fatehpur Bulandi
   Post: Rajaka Tajpur
   District: Bijnor .…….Petitioners

Versus

1. State of U.P. through Secretary, Revenue
   Department, U.P. Shasan, Vidhan Bhavan, Lucknow.
2. Secretary
   Board of Revenue, U.P. Section, IV
   Lucknow
3. Pargana Adhikari,
   Haridwar, District Haridwar.

…….Respondents

Shri V.K. Kohli, learned Counsel for the petitioners
Learned Standing Counsel for the State.

Hon'ble Prafulla C. Pant, J.

By means of this writ petition, moved under Article 226 of Constitution of India, the petitioners have sought writ in the nature of certiorari, quashing the orders dated 20.12.1989 (copy Annexure- 1,2 and 3), terminating the services of the petitioners.

2. Brief facts of the case, as narrated in the writ petition are that the petitioners were working as Lekhpal in District Haridwar and under order dated 28.10.1989 issued by Board of Revenue, their services were terminated vide order dated 20.12.1989, canceling the result of the petitioners in Lekhpal Training School examination held in January, 1988. It is alleged that the result in aforesaid examination was cancelled without assigning any reason and without being given any opportunity of hearing to the petitioners. It is further alleged that the petitioners, after passing their High School Examination, entered in the service in the capacity of un-trained Lekhpals. Petitioners on fulfillment of qualification, applied to the respondents to send them for training of Lekhpal. The respondent no. 2 on the basis of the qualification and experience, permitted the petitioners to undergo training in the Lekhpal Training School. When they were undergoing training, it was directed by the Board that the trained Lekhpals should be given appointment on verification of their past services and subject to condition that they pass the examination, held by the Training School. The petitioners were given appointment order dated 08.09.1988, with the condition that their services would be terminated if they fail in the examination, scheduled to be held in 1988. It is alleged by the petitioners that they did not fail in the examination and without any rhyme and reason, the respondents have terminated their services, in gross violation of principles of natural justice.

4. The respondents have contested the writ petition and in the counter affidavit, it is alleged that to meet the exigencies of service, certain untrained Lekhpals were permitted to serve the department for a period of one year, in pursuance of order dated 15.01.1986, issued by the Board of Revenue, U.P. It was also categorically provided that only those un-

trained Lekhpals would be sent for training who have experience of atleast one year as un-trained Lekhpals. The petitioners applied for being sent for training of Lehpals on the basis of certificate of experience, attached with their applications. However, on scrutiny, the certificates of experience of petitioners were found to be false and fictitious. In view of said fact, examination they undertook in the Lekhpal School was cancelled and as such they stood failed. It has been specifically stated in the counter affidavit that District Magistrate, Moradabad, has reported that the certificates were not issued by conderned authority. It is further stated in the counter affidavit that petitioners have already been relieved from the service on 30.12.1989 and 31.12.1989 as such they are no more in the service. In the rejoinder affidavit, the petitioners have alleged that some of the similarly situated persons have been taken into service. However, in reply to said fact, it is stated in the Additional Counter Affidavit, that four such persons were permitted to work under orders of the Public Service Tribunal.

5. I heard learned counsel for the parties and perused the record.

6. There is not a single word in the writ petitions that the experience certificate, obtained by the petitioners were genuine and not false. The respondents have taken a specific case since the experience certificates of petitioners were on inquiry found to be false, as such, their examination in the Training School was cancelled. Admittedly, it was a condition precedent for the appointment as Lekhpals to pass out the examination form the Lekhpals Training School. It has been clearly established that the petitioners were not declared successful in the examination, as their examination itself was cancelled. Merely for the reason that they sought

training (on the basis of false experience certificate), it cannot be said that they had passed the Lekhpal Training Examination. Therefore, writ of certiorari cannot be issued to quash the termination order passed against the petitioners for they cannot be said to have clearned the Lekhpal Training Examination. In the opinion of this Court, in the facts and circumstances of the case, the writ petition is devoid of merits and liable to be dismissed. The same is accordingly dismissed.

(Prafulla C. Pant, J.)

Dt: 12th July, 2005
Sweta